

CHAPTER 11

LICENSE SUSPENSIONS

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11.1 GENERALLY

The Utah Driver License Division is authorized to issue driver license and also to suspend or revoke the driving privilege of persons arrested for, and convicted of, impaired driving-related offenses.

The legislature has found that,

[The] purpose of this title relating to suspension or revocation of a person's license or privilege to drive a motor vehicle for driving with a blood alcohol content above a certain level or while under the influence of alcohol, any drug, or a combination of alcohol and any drug, or for refusing to take a chemical test as provided in Section 41-6a-520, is protecting persons on highways by quickly removing from the highways those persons who have shown they are safety hazards.

Utah Code Ann. §53-3-222

11.1.1 DEFINITIONS

53-3-102. Definitions.

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(24) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

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(26) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

11.1.2 OFFENSES REQUIRING ACTION

Although there are many offenses and circumstances which require some negative action against a person's driving privilege, this section deals only with those offenses related to impaired driving. The statutory authority and mandate for such action is contained in Utah Code Ann. §53-3-220 and include:

- Manslaughter or Negligent Homicide resulting from use of a vehicle or Automobile Homicide;
- Driving Under the Influence of Alcohol or Drugs;
- Two charges of Reckless Driving within 6 months;
- Driving with a Measurable Amount of a Controlled Substance or its Metabolite in the Body;
- Violation of an Alcohol-Restricted Driver condition
- Violation of an Interlock-Restricted Driver condition

Additionally, refusal to submit to a chemical test will result in the suspension of a person's driving privilege.

11.1.3 EMERGENCY ACTION

Due to the overwhelming need to remove dangerous drivers from the highway, DLD has the authority to take immediate action against a DUI suspect's license without waiting for a conviction to be entered. This provision allows DLD to take whatever suspension or other action against a driver immediately upon arrest.

53-3-221. Offenses which may result in denial, suspension, disqualification, or revocation of license without hearing - Additional grounds for suspension - Point system for traffic violations - Notice and hearing - Reporting of traffic violation procedures.

(1) By following the emergency procedures in Title 63, Chapter 46b, Administrative Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license of any person without hearing and without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed **any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;**

emphasis added.

11.2 LENGTH OF SUSPENSION

Following conviction for any of the above-enumerated offenses, the DLD will suspend the offender's driving privilege for a period of **90 days**. For a subsequent conviction within 10 years, the suspension period is **one year**. Additionally, a court **may** order an additional period of suspension of 90 days, 180 days, 1 year or 2 years if the court believes there exist serious safety hazards in the case. A court may not waive any suspension mandated by statute and imposed by DLD.

If a suspect refuses a chemical test after the appropriate admonition by a

peace officer, DLD shall, for the first refusal suspend the offender's driver license for a period of **18 months**. A subsequent refusal carries a suspension of **24 months**.

11.3 OTHER LICENSE PENALTIES

Alcohol Restricted Driver.

Upon conviction of an impaired driving offense, a defendant will not be allowed to drive with **any** alcohol in their system:

- For two years following a first conviction for DUI or Alcohol Related Reckless Driving;
- For two years following a *per se* arrest for DUI;
- For five years for a first refusal;
- For five years for a first conviction for DUI or Alcohol Related Reckless Driving if defendant is over 21 and had a passenger under age of 16 in vehicle;
- For ten years for a second conviction for DUI or Alcohol Related Reckless Driving within 10 years of first offense;
- For life for third conviction or automobile homicide.

Following the 2007 legislative session, any conviction of violating this section will result in the ARD period starting over as well as an addition suspension of **one year**.

Ignition Interlock Requirement

Upon conviction of an impaired driving offense, a defendant will be required to install and use an ignition interlock device on any vehicle he or she owns or operates.

Upon conviction of a second or subsequent offense of DUI, the court **shall** order that a defendant is an interlock restricted driver for a period of **3 years**. A court **may** order an interlock as a condition of probation in first offense DUIs as well.

Additionally, 2007 amendments require the court to impose an interlock restriction for **3 years** on any defendant convicted of violation of an Alcohol

Restricted Driver condition.

Violation of this section will result in the IRD period starting over.

11.4 PROCEDURES

Upon arrest for a DUI-related offense, the arresting officer will provide the defendant with a 30-day temporary permit while confiscating his or her driver license. Based upon potential danger, multiple offenses, out-of-state driver, or CDL, the officer has the option of not issuing this temporary permit.

In order to contest the suspension of their license, the offender must request a hearing before DLD, in writing, within 10 days of being arrested. Hearings are conducted before DLD hearing officers pursuant to Utah Code Ann. §53-3-223:

53-3-223. Chemical test for driving under the influence - Temporary license - Hearing and decision - Suspension and fee - Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor

vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) (a) When a peace officer gives notice on behalf of the division, the peace officer shall:

- (i) take the Utah license certificate or permit, if any, of the driver;
- (ii) issue a temporary license certificate effective for only 29 days from the date of arrest; and

- (iii) supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(b) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate.

(5) As a matter of procedure, a peace officer shall send to the division within ten calendar days after the day on which notice is provided:

- (a) the person's license certificate;

- (b) a copy of the citation issued for the offense;

- (c) a signed report in a manner specified by the division indicating the chemical test results, if any; and

- (d) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 or 41-6a-517.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within ten calendar days of the day on which notice is provided under Subsection (5).

- (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in the county in which the arrest occurred.

- (ii) The division may hold a hearing in some other county if the division and

the person both agree.

(c) The hearing shall be documented and shall cover the issues of:
(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;
(ii) whether the person refused to submit to the test; and
(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or
(B) may issue subpoenas for the attendance of necessary peace officers.
(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78-46-28.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(g) After the hearing, the division shall order whether the person's license to drive a motor vehicle is suspended or not.

(h) If the person for whom the hearing is held fails to appear before the division as required in the notice, the division shall order whether the person's license to drive a motor vehicle is suspended or not.

(7) (a) A first suspension, whether ordered or not challenged under this Subsection (7), is for a period of 90 days, beginning on the 30th day after the date of the arrest.

(b) A second or subsequent suspension for an offense that occurred within the previous ten years under this Subsection (7) is for a period of one year, beginning on the 30th day after the date of arrest.

(8) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(13) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be

paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

11.5 REINSTATEMENT OF DRIVER LICENSE

Reinstatement of a person's driver license following a period of suspension is not automatic. Persons must apply for reinstatement and pay the appropriate fee. Following the 2007 legislation, the reinstatement fee is \$35.00 plus an administrative fee of \$25.00.

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